

APPEAL NO. 020136  
FILED FEBRUARY 26, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on December 20, 2001. The hearing officer determined that the appellant (claimant) is not entitled to supplemental income benefits (SIBs) for the first quarter; that the respondent (carrier) did not waive the right to contest the claimant's entitlement to SIBs for the first quarter; and that the claimant is not entitled to SIBs for the second through fifth quarters of SIBs. The claimant appealed, arguing that the hearing officer erred in determining entitlement to SIBs for the first through fifth quarters. The carrier filed a response, urging affirmance.

The determination that the carrier's right to contest entitlement to SIBs for the first quarter has not been appealed and has become final. Section 410.169.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant is not entitled to SIBs for the first, second, third, fourth, and fifth quarters. The claimant testified that during the qualifying periods in dispute he did not search for employment and he did not enroll in a training program with the Texas Rehabilitation Commission. The hearing officer determined that medical records in evidence lacked a narrative report from any doctor which specifically explained how the injury caused a total inability to work and, therefore, the claimant did not make a good faith effort to search for employment commensurate with his ability to work during the qualifying periods in dispute. Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102(d)(4) (Rule 130.102(d)(4)), as applied to this case, defines good faith as follows:

Good Faith Effort. An injured employee has made a good faith effort to obtain employment commensurate with the employee's ability to work if the employee:

- (4) has been unable to perform any type of work in any capacity, has provided a narrative report from a doctor which specifically explains how the injury causes a total inability to work, and no other records show that the injured employee is able to return to work[.]

We have reviewed the evidence, the hearing officer's decision, and the applicable rules of the Texas Workers' Compensation Commission, specifically Rule 130.102(d)(4), which concerns how the "good faith search" requirement for SIBs is met when a search for employment is not made due to the contention that there is a total inability to work.

The decision of the hearing officer will be set aside only if the evidence supporting the hearing officer's determination is so weak or against the overwhelming weight of the evidence as to be clearly wrong or manifestly unjust. Atlantic Mutual Insurance Co. v. Middleman, 661 S.W.2d 182 (Tex. App.-San Antonio 1983, writ ref'd n.r.e.). We do not agree that this was the case here, and affirm the decision and order.

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **CONTINENTAL CASUALTY COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM  
350 N. ST. PAUL STREET  
DALLAS, TEXAS 75201.**

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Susan M. Kelley  
Appeals Judge

CONCUR:

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Michael B. McShane  
Appeals Judge

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Terri Kay Oliver  
Appeals Judge